

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Anthony J. Heppner,
Joyce V. Heppner,

Debtors.

Chapter 11 Case
Case No. BKY 04-44711

**NOTICE OF HEARING AND
MOTION OF AGSTAR FINANCIAL SERVICES FLCA FOR RELIEF
FROM AUTOMATIC STAY**

TO: The Debtors and other entities specified in Local Rule 9013-3.

AgStar Financial Services, FLCA (“AgStar”), moves the Court for the relief requested below and gives notice of hearing.

1. The Court will hold a hearing on this Motion at 2:00 p.m. on November 4, 2004, in Courtroom No. 8 West, at the United States Courthouse, at 300 South 4th Street, in Minneapolis, Minnesota.
2. Because this Motion is being delivered at least 21 days or mailed at least 24 days before the hearing date, any response to this Motion must be filed and delivered not later than October 28, 2004, which is seven days before the time set for the hearing (including Saturdays, Sundays and holidays), or filed and served by mail not later than October 25, 2004, which is 10 days before the time set for the hearing (including Saturdays, Sundays and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. This Court has jurisdiction over this Motion pursuant to Sections 157 and 1334 of Title 28 of the United States Code, Rule 5005 of the Federal Rules of Bankruptcy Procedure, and Local Rule 1070-1. This proceeding is a core proceeding. The petition commencing this Chapter 11 case was filed on August 23, 2004. This case is now pending in this court.
4. This Motion arises under Section 362(d) of the United States Bankruptcy Code (11 U.S.C. §362(d) and Rule 4001(a) of the Federal Rules of Bankruptcy Procedure. This Motion is filed under Rules 9014 of the Federal Rules of Bankruptcy Procedure and Local Rules 9013-1, 9013-2, 9013-3.
5. AgStar requests an order terminating the automatic stay to allow AgStar to evict the Debtors from real property located at 221 County Road 86 in Theilman, Wabasha County,

Minnesota. The grounds for this Motion is that after October 22, 2004, the Debtors do not have any remaining ownership interest or other rights in the property.

6. AgStar is the owner and holder of a Sheriff's Certificate of Sale dated August 21, 2003, and filed for record August 21, 2003 in the Office of the County Recorder of Wabasha County, as Document No. 258891. A copy of the Sheriff's Certificate of Sale is attached to this Motion as Exhibit "A" and contains the legal description of the property. The Debtors' rights in the property cease as of October 22, 2004, as detailed further in the accompanying Memorandum of Facts and Law.

7. If oral testimony is necessary at the hearing, AgStar will call James Rohlfing, Lending Services Executive or Rick Kjolsing of AgStar Financial Services, FLCA, the substance of whose testimony will relate to the foreclosure of the property and its status and other matters relevant to this Motion.

WHEREFORE, AgStar moves the Court for an order immediately terminating the automatic stay to allow AgStar to take possession and control of the property, including evicting the Debtors and otherwise enforce AgStar's rights as the owner of the property if the Debtors do not redeem the Property from the sale within the time allowed by law and for such other relief as the Court finds just and equitable:

Dated: October 11, 2004

DUNLAP & SEEGER, P.A.

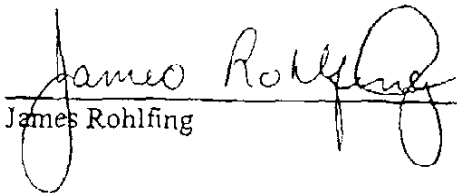
By: /e/ Paul W. Bucher
Paul W. Bucher
Registration No. 123237

Attorneys for AgStar Financial Services, FLCA
206 South Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

VERIFICATION

I, James Rohlfig, Lending Services Executive of AgStar Financial Services, FLCA, named in the foregoing the Notice of Hearing and Motion for Relief from Stay, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Executed on October 11, 2004


James Rohlfig

1200128.00
128.03

TRANSFER ENTERED THIS 21st
DAY OF AUGUST 2003
JERRY LEISEN
COUNTY AUDITOR/TREASURER
BY: [Signature]

258891
STATE OF MINNESOTA
County of Wabasha
Office of County Recorder
This is to certify that the within
instrument was filed for record
in this office at Wabasha, on the
21st day of AUGUST, A.D. 2003
at 4 o'clock P.m. and
that the same was duly recorded
in Wabasha County Records.
JEFFERY R. AITKEN
County Recorder
By: [Signature]

SHERIFF'S CERTIFICATE OF SALE

Date: August 21, 2003

I, Rodney Bartsh, Sheriff of Wabasha County, Minnesota, certify that:

1. Pursuant to the attached Notice of Mortgage Foreclosure Sale and the power of sale contained in the Mortgage described in the Notice, which Mortgage was dated January 10, 2001, executed by Anthony Heppner and Joyce Heppner, husband and wife, as mortgagors, to AgStar Financial Services, FLCA, a corporation organized and existing under the laws of the United States, as mortgagee, and filed for record in the office of the County Recorder of Wabasha County, Minnesota, on January 31, 2001, as Document No. 240520, I offered for sale and sold at public auction to the highest bidder at the time and place specified in the Notice the property in Wabasha County, Minnesota, described as follows:

PARCEL A: The North Half of the Southeast Quarter (N $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 12,
Township 109 North, Range 12 West; and

PARCEL B: The South Half of the Southeast Quarter (S $\frac{1}{2}$ SE $\frac{1}{4}$) of Section 12,
Township 109 North, Range 12 West.

2. The sale was held on the 21st day of August 2003, at 10:00 a.m., at the Wabasha County Sheriff's Office, 618 Broadway Avenue, in the City of Wabasha, Minnesota. The price paid for each parcel sold was \$541,625.60.

3. The purchaser was AgStar Financial Services, FLCA, a corporation under the laws of the United States of America.

4. The sale was in all respects openly, honestly, fairly and lawfully conducted.

5. The time allowed by law for redemption by the mortgagor or the mortgagor's personal representatives or assigns is 12 months after the date of the sale.




Jeffery R. Aitken, County Recorder
Filed for record 8/21/03
Instrument No. 109954
Lender AgStar Amt. 20.00
Dunlap Seeger 10.00

By: Kevin Dather
Deputy / Chief Deputy Kevin Dather

The foregoing instrument was acknowledged before me this 21st day of August 2003, by Kevin Datten, Deputy Sheriff.
Chief Deputy

Barbara Jean Brown
Notary Public or Other Official



BARBARA JEAN BROMMER
NOTARY PUBLIC - MINNESOTA
 My Commission Expires Jan. 31, 2005

This Foreclosure Record consists of the following attached documents:

Notice of Mortgage Foreclosure Sale

Affidavit of Publication

Homestead Designation Notice

Separate Tract Designation Notice

Affidavit of Service on Occupant

Affidavit of Costs and Disbursements

Affidavit Regarding Military Service

NOTICE OF MORTGAGE FORECLOSURE SALE

Date: June 23, 2003

YOU ARE NOTIFIED THAT:

1. Default has occurred in the conditions of the Mortgage dated January 10, 2001, executed by Anthony Heppner and Joyce Heppner, husband and wife, as mortgagors, to AgStar Financial Services, FLCA, a corporation organized and existing under the laws of the United States, as mortgagee, and filed for record in the office of the County Recorder of Wabasha County, Minnesota, on January 31, 2001, as Document No. 240520. The land described in the Mortgage is not registered land.
2. The Mortgage has not been assigned.
3. The original principal amount secured by the Mortgage was \$473,800.00.
4. No action or proceeding at law is now pending to recover all or any part of the debt secured by the Mortgage.
5. The holder of the Mortgage has complied with all conditions precedent to acceleration of the debt secured by the Mortgage and foreclosure of the Mortgage, and all notice and other requirements of applicable statutes.
6. At the date of this notice the amount due on the Mortgage, and taxes (if any), paid by the holder of the Mortgage is \$519,093.42.
7. Pursuant to the power of sale in the Mortgage, the holder of the Mortgage will foreclose the Mortgage, and the Sheriff of Wabasha County, Minnesota, will sell land in the County of Wabasha, State of Minnesota, described as follows:

PARCEL A: The North Half of the Southeast Quarter (N½SE¼) of Section 12, Township 109 North, Range 12 West; and

PARCEL B: The South Half of the Southeast Quarter (S½SE¼) of Section 12, Township 109 North, Range 12 West;

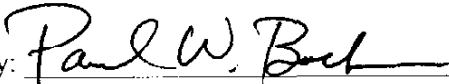
at public auction on the 21st day of August, 2003, at 10:00 a.m. at the Wabasha County Sheriff's Office, 618 Broadway Avenue, in the City of Wabasha, Minnesota.

8. The time allowed by law for redemption by the mortgagors or the mortgagors' personal representatives or assigns is 12 months after the date of sale.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

AGSTAR FINANCIAL SERVICES FLCA,
Mortgagee

DUNLAP & SEEGER, P.A.

By: _____

Paul W. Bucher

Attorney Registration No. 123237

Attorneys for Mortgagee

206 South Broadway, Suite 505

Post Office Box 549

Rochester, Minnesota 55903-0549

Telephone: (507) 288-9111

AFFIDAVIT OF PUBLICATION ~ Lake City Graphic

NOTICE OF MORTGAGE FORECLOSURE SALE DATE: JUNE 23, 2003

YOU ARE NOTIFIED THAT:

1. Default has occurred in the conditions of the Mortgage dated January 10, 2001, executed by Anthony Heppner and Joyce Heppner, husband and wife, as mortgagors, to AgStar Financial Services, FLCA, a corporation organized and existing under the laws of the United States, as mortgagee, and filed for record in the office of the County Recorder of Wabasha County, Minnesota, on January 31, 2001, as Document No. 240520. The land described in the Mortgage is not registered land.

2. The Mortgage has not been assigned.

3. The original principal amount secured by the Mortgage was \$473,800.00.

4. No action or proceeding at law is now pending to recover all or any part of the debt secured by the Mortgage.

5. The holder of the Mortgage has complied with all conditions precedent to acceleration of the debt secured by the mortgage and foreclosure of the Mortgage, and all notice and other requirements of applicable statutes.

6. At the date of this notice the amount due on the Mortgage, and taxes (if any), paid by the holder of the Mortgage is \$519,093.42.

7. Pursuant to the power of sale in the Mortgage, the holder of the Mortgage will foreclose the Mortgage, and the Sheriff of Wabasha County, Minnesota, will sell land in the County of Wabasha, State of Minnesota, described as follows:

PARCEL A: The North Half of the Southeast Quarter (N1/2SE1/4) of Section 12, Township 109 North, Range 12 West; and

PARCEL B: The South Half of the Southeast Quarter (S1/2SE1/4) of Section 12, Township 109 North, Range 12 West; at public auction on the 21st day of August 2003, at 10:00 a.m. at the Wabasha County Sheriff's Office, 618 Broadway Avenue, in the City of Wabasha, Minnesota.

8. The time allowed by law for redemption by the mortgagors or the mortgagors' personal representatives or assigns is 12 months after the date of sale.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

AGSTAR FINANCIAL SERVICES
FLCA,

Mortgagee

DUNLAP & SEEGER, P.A.

By: Paul W. Bucher

Attorney Registration No. 123237

Attorneys for Mortgagee

206 South Broadway, Suite 505

Post Office Box 549

Rochester, Minnesota 55903-0549

Telephone: (507) 288-9111

July 3, 10, 17, 24, 31
and August 7, 2003

STATE OF MINNESOTA } ss.
County of Wabasha

Terry L. Schumacher and Dean T. Schumacher being duly sworn, on oath say that they are the publishers of the newspaper known as THE LAKE CITY GRAPHIC, and have full knowledge of the facts which are stated below: (A) The newspaper has complied with all the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended. (B) The printed _____

Notice of Mortgage Foreclosure Sale

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 6 successive weeks, it was first published on Thursday, the 3rd day of July, 2003 and was thereafter printed and published on every Thursday to and including Thursday, the 7th day of August, 2003, and printed below is a copy of the lower case alphabet from A to Z which is hereby acknowledged as being the size and kind of type used in the composition and publication of the notice:

abcdefghijklmnopqrstuvwxyz

abcdefghijklmnopqrstuvwxyz

BY: Dean T. Schumacher
Publisher

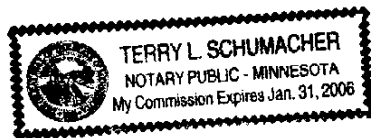
Subscribed and sworn to before

me on this 14th day of

August, 2003

Terry Schumacher

Notary Public, Wabasha County, Minnesota



HOMESTEAD DESIGNATION NOTICE

Date: June 23, 2003

THIS NOTICE is attached to and served with the Notice of Mortgage Foreclosure Sale of the Mortgage dated January 10, 2001, executed by Anthony Heppner and Joyce Heppner, husband and wife, as mortgagors, to AgStar Financial Services, FLCA, a corporation organized and existing under the laws of the United States, as mortgagee, and filed for record in the office of the County Recorder of Wabasha County, Minnesota, on January 31, 2001, as Document No. 240520.

In accordance with Minnesota Statutes, Section 582.041, the foreclosing mortgagee notifies you that:

IF PART OF THE PROPERTY TO BE SOLD CONTAINS YOUR HOUSE, YOU MAY DESIGNATE AN AREA AS A HOMESTEAD TO BE SOLD AND REDEEMED SEPARATELY.

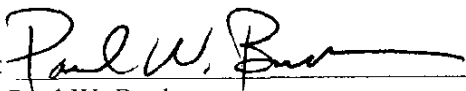
YOU MAY DESIGNATE THE HOUSE YOU OCCUPY AND ANY AMOUNT OF THE PROPERTY AS A HOMESTEAD. THE DESIGNATED HOMESTEAD PROPERTY MUST CONFORM TO THE LOCAL ZONING ORDINANCES AND BE COMPACT SO THAT IT DOES NOT UNREASONABLY REDUCE THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE PERSON FORECLOSING ON THE PROPERTY, THE SHERIFF, AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL DESCRIPTION OF THE HOMESTEAD YOU HAVE DESIGNATED BY TEN BUSINESS DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

AGSTAR FINANCIAL SERVICES FLCA,
Mortgagee

DUNLAP & SEEGER, P.A.

By: 
Paul W. Bucher

Attorney Registration No. 123237

Attorneys for Mortgagee

206 South Broadway, Suite 505

Post Office Box 549

Rochester, Minnesota 55903-0549

Telephone: (507) 288-9111

SEPARATE TRACT DESIGNATION NOTICE

Date: June 23, 2003

THIS NOTICE is attached to and served with the Notice of Mortgage Foreclosure Sale of the Mortgage dated January 10, 2001, executed by Anthony Heppner and Joyce Heppner, husband and wife, as mortgagors, to AgStar Financial Services, FLCA, a corporation organized and existing under the laws of the United States, as mortgagee, and filed for record in the office of the County Recorder of Wabasha County, Minnesota, on January 31, 2001, as Document No. 240520.

In accordance with Minnesota Statutes, Section 582.042, the foreclosing mortgagee notifies you that:

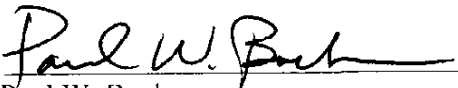
IF THE PROPERTY TO BE SOLD CONTAINS SEPARATE TRACTS, YOU MAY REQUEST THAT THE TRACTS BE SOLD AND REDEEMED SEPARATELY. EACH OF THE SEPARATE TRACTS MUST CONFORM TO LOCAL ZONING ORDINANCES, MUST HAVE AN ENTRANCE BY DIRECT ACCESS TO A PUBLIC ROAD OR BY PERMANENT EASEMENT, AND MUST NOT UNREASONABLY AFFECT THE VALUE OF THE REMAINING PROPERTY.

YOU MUST PROVIDE THE PERSON FORECLOSING ON THE PROPERTY, THE SHERIFF, AND THE COUNTY RECORDER WITH A COPY OF THE LEGAL DESCRIPTIONS OF EACH OF THE TRACTS YOU HAVE DESIGNATED TO BE SOLD SEPARATELY BY TEN BUSINESS DAYS BEFORE THE DATE THE PROPERTY IS TO BE SOLD.

THIS COMMUNICATION IS FROM A DEBT COLLECTOR.

AGSTAR FINANCIAL SERVICES FLCA,
Mortgagee

DUNLAP & SEEGER, P.A.

By: 

Paul W. Bucher

Attorney Registration No. 123237

Attorneys for Mortgagee

206 South Broadway, Suite 505

Post Office Box 549

Rochester, Minnesota 55903-0549

Telephone: (507) 288-9111

AFFIDAVIT OF SERVICE ON OCCUPANT

STATE OF MINNESOTA)
) ss.
COUNTY OF OLMSTED)

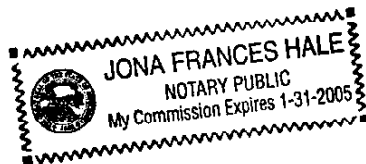
Bob Hale, being duly sworn on oath says:

1. On June 25, 2003, I went upon the property described in the foregoing notices for the purpose of serving the notices upon the persons in possession thereof;
2. On said date Anthony Heppner and Joyce Heppner were in possession of the property;
3. (Personal Service) On said date I served the notices by delivering copies thereof personally to the following persons in possession of the property described in the notices:
Anthony Heppner;
4. (Substituted Service) On said date I served the notices on the following persons in possession of the property described in the notices: Joyce Heppner
by leaving a copy thereof at the usual place of abode of such persons with Anthony Heppner, a person of suitable age and discretion then residing therein;
5. On said date, and for some time prior to service, the above-named persons and no other persons were in possession of the property.

Bob Hale
Bob Hale

Subscribed and sworn to before me
this 26 day of June, 2003, by
Bob Hale.

Jona Frances Hale
(SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL)



Karla J. Jones
Notary Public or Other Official

AFFIDAVIT REGARDING MILITARY SERVICE

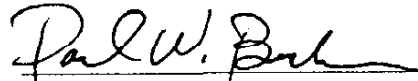
STATE OF MINNESOTA)

) ss.

COUNTY OF OLMSTED)

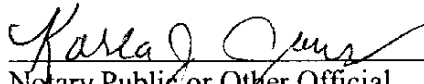
I, Paul W. Bucher, being duly sworn, on oath state that:

1. I know the facts relating to the military service status of Anthony Heppner and Joyce Heppner, who were the owners at the time of sale of the mortgaged property described in the Sheriff's Certificate of Sale to which this Affidavit is attached.
2. These persons were not in military service on the date of the foreclosure sale or for three months prior to the sale.


Paul W. Bucher

Signed and sworn to before me
this 21st day of August 2003, by Paul W. Bucher.

NOTARIAL STAMP OR SEAL
(OR OTHER TITLE OR RANK)


Notary Public or Other Official



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Anthony J. Heppner,
Joyce V. Heppner,

Chapter 11
Case No. 04-44711

Debtor.

**MEMORANDUM OF FACTS AND LAW OF AGSTAR FINANCIAL
SERVICES FLCA IN SUPPORT OF MOTION FOR RELIEF FROM
AUTOMATIC STAY**

AgStar Financial Services FLCA (“AgStar”) hereby submits this Memorandum of Facts and Law in support of its Motion for Relief from Automatic Stay in the above matter.

FACTS

AgStar is the owner and holder of a Sheriff’s Certificate of Sale on certain real property, which was the homestead of Anthony J. Heppner and Joyce V. Heppner (the Debtors’), located at 221 County Road 86 in Theilman, Wabasha County, Minnesota. The legal description of the property is set forth in the accompanying Motion. The sale occurred on August 21, 2003. On the Debtors’ last date to redeem under state law, which was August 23, 2004, the Debtors filed a petition for relief under Chapter 11 of the United States Bankruptcy Code.

LAW

The filing of a petition in bankruptcy operates as a stay, applicable to all entities of any act to obtain possession of the property of the estate or of property from the estate or to exercise control over property of the estate. 11 U.S.C. § 362(a)(3).

A party in interest is entitled to relief from the automatic stay after notice and a hearing either for cause or, with respect to stay against property, if the debtor does not have equity in the property and the property is not necessary to an effective reorganization. Id. at §362(d)(2). In any hearing concerning relief from the automatic stay, the party opposing the relief has the burden of proof on all issues other than the issue of the debtor's equity in the property. Id. at §362(g).

The property here at issue was sold at a mortgage foreclosure sale on August 21, 2003 by the Sheriff of Wabasha County, Minnesota to AgStar. Absent the bankruptcy filing, the Debtors' rights to redeem would have expired on August 23, 2004.¹

It is well settled in the 8th Circuit that the automatic stay provision of the Bankruptcy Code does not operate to toll or suspend running of a statutory redemption created by Minnesota law in connection with real estate mortgages foreclosures. *Johnson v. First National Bank of Montivideo*, 719 F. 2d 270 (8th Cir. 1983). It is also well settled that the Bankruptcy Court lacks authority under the general equitable power section of the Bankruptcy Code (11 U.S.C. §105)(a)) to stay indefinitely the expiration of a statutory redemption period created by Minnesota law in connection with a real estate foreclosure. Id.

Therefore, the only extension of time available to a debtor is that provided by 11 U.S.C. §108(b). That section provides that if applicable nonbankruptcy law fixes a period within which a debtor may cure a default or perform a similar act and the period has not expired before the date of filing the petition, the trustee may only cure or perform the act before the later of the end of the period, including any suspension of the period occurring on or after the

¹ The Debtors had 12 months under state law to redeem from this foreclosure sale, which, absent the bankruptcy filing, would have expired on Saturday, August 21, 2004. If the last day of a period to perform or do an act, duty, matter, payment or thing falls on a Saturday, Sunday, or legal holiday, the last day is omitted from the computation of the duration of the time. Minn. Stat. §645.15 (2002). This means that the Debtor would have otherwise had until Monday, August 23, 2004, to redeem.

commencement of the case or 60 days after the order for relief. Id. Here the end of the period would have occurred on August 23, 2004. The date which is 60 days after the order for relief in this case is October 22, 2004, which is the last day for the Debtors to redeem.

Failure to redeem within the time allowed extinguishes all the estate and interest of a mortgagor. *Thielen v. Strong*, 238 N.W. 678 (Minn. 1931). Cause for relief from the stay will exist if the Debtors fail to redeem as they will have no further estate or interest in the property after October 22, 2004.

CONCLUSION

For the foregoing reasons, AgStar respectfully requests that the Court terminate the automatic stay to allow AgStar to take possession and control of the property, including evicting the Debtors from the property.

Dated: October 11, 2004

DUNLAP & SEEGER, P.A.

By: /e/ Paul W. Bucher
Paul W. Bucher
Registration No. 123237

Attorneys for AgStar Financial Services, FLCA
206 South Broadway, Suite 505
Post Office Box 549
Rochester, Minnesota 55903
Telephone: (507) 288-9111

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Anthony J. Heppner,
Joyce V. Heppner,

Chapter 11 Case
Case No. 04-44711

Debtors.

ORDER FOR RELIEF FROM AUTOMATIC STAY

This matter came appearing before the Court on the 4th day of November, 2004, on the Motion of AgStar Financial Services, FLCA, for relief from Automatic Stay. Appearances, if any, were noted of record. Based on the verified Motion of the file, records and proceedings in this Case:

IT IS HEREBY ORDERED that:

1. AgStar Financial Services, FLCA is granted relief from the Automatic Stay under 11 U.S.C. §362(a), which is hereby terminated to allow AgStar to evict the Debtors from and otherwise take possession and control of real property in Wabasha County, Minnesota, described as follows:

The North One-Half of the Southeast Quarter (N1/2SE1/4) of Section 12,
Township 109, Range 12, Wabasha County, Minnesota.

The South One-Half of the Southeast Quarter (S1/2SE1/4) of Section 12,
Township 109, Range 12, Wabasha County, Minnesota.

2. This Order is effective immediately, notwithstanding Fed. R. Bankr. P. 4001(a)(3).

Dated: _____

BY THE COURT:

Honorable Robert J. Kressel
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Anthony J. Heppner and
Joyce V. Heppner,

Case No. BKY 04-44711
Chapter 11 Case

Debtors.

UNSWORN DECLARATION FOR PROOF OF SERVICE

I, Karla J. Jans, employed by Dunlap & Seeger, P.A., attorneys licensed to practice law in this Court, with office address at 206 South Broadway, Suite 505, P.O. Box 549, Rochester, Minnesota 55903-0549, declares that on October 11, 2004, I served the annexed

- 1) Notice of Hearing and Motion of AgStar Financial Services FLCA for Relief from Automatic Stay;
- 2) Memorandum of Facts and Law of Agstar Financial Services FLCA in Support of Motion for Relief from Automatic Stay; and
- 3) proposed Order for Relief from Automatic Stay;

to each person referenced below, a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing the same in the post office at Rochester, Minnesota, addressed to each of them as follows:


George W. Roberts
Attorney at Law
1433 Utica Ave S Ste 240
Minneapolis MN 55416

U.S. Trustee
U.S. Trustee Office
300 S 4th St Rm 1015
Minneapolis MN 55415

Robert B. Raschke
Attorney at Law
U.S. Trustee Office
300 S 4th St Rm 1015
Minneapolis MN 55415

And, I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: October 11, 2004



Karla J. Jans